

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN SAMUEL MACKENZIE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Hon. Robert J. Jonker

Case No. 1:16-cv-00635-RJJ

REPORT AND RECOMMENDATION

This is a social security action brought under 42 U.S.C. §§ 405(g), 1383(c)(3), seeking review of a final decision of the Commissioner of Social Security finding that plaintiff was not entitled to disability insurance benefits (DIB) and supplemental security income (SSI) benefits. Plaintiff filed his complaint on May 31, 2016 (ECF No. 1), and he paid the filing fee.

On August 23, 2016, the Court issued a Notice of Impending Dismissal (ECF No. 3), as plaintiff did not provide the Court with a Summons to be issued. On August 31, 2016, plaintiff complied with the notice and the Court issued the proposed Summons that same day. (ECF No. 5). On January 13, 2017, after more than the requisite ninety days had passed without service of the issued summons, *see* FED. R. CIV. P. 4(m), the Court issued an order requiring plaintiff to show cause why his case should not be dismissed for failure to prosecute. (ECF No. 6, PageID.10). Plaintiff's counsel filed a response on January 31, 2017, blaming his secretary for the failure to

serve the summons, and asking for an additional sixty days to serve the summons. (ECF No. 7, PageID.11-12). The Court granted the request, in part, extending the deadline for serving the summons to March 3, 2017. (ECF No. 8, PageID.13).

The extended deadline has passed without service of the summons. This is now 187 days after the Court's issuance of the summons.

Recommended Disposition

For the foregoing reasons, I recommend that plaintiff's complaint be dismissed without prejudice for want of prosecution and for failure to comply with the rules and orders of this Court. FED. R. CIV. P. 4(m), 41(b), and W.D. MICH. LCIVR 41.1.

Dated: March 8, 2017

/s/ Phillip J. Green
United States Magistrate Judge

NOTICE TO PARTIES

Any objections to this Report and Recommendation must be filed and served within fourteen days of service of this notice on you. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b). All objections and responses to objections are governed by W.D. MICH. LCIVR 72.3(b). Failure to file timely and specific objections may constitute a waiver of any further right of appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Keeling v. Warden, Lebanon Corr. Inst.*, 673 F.3d 452, 458 (6th Cir. 2012); *United States v. Branch*, 537 F.3d 582, 587 (6th Cir. 2008). General objections do not suffice. *See McClanahan v. Comm'r of Social Security*, 474 F.3d 830, 837 (6th Cir. 2006); *Frontier Ins. Co. v. Blaty*, 454 F.3d 590, 596-97 (6th Cir. 2006).